

Message Text

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ORIGIN L-03

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FM SECSTATE WASHDC

TO AMEMBASSY LAGOS

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E.O. 11652: N/A

TAGS: EFIN, EIND, NI, US

SUBJECT: OPIC AGREEMENT

REF: A. LAGOS 4949; B. LAGOS 5007; C. LAGOS 5008

1. AMBASSADOR IS AUTHORIZED TO SIGN INVESTMENT AGREEMENT
AND AGREED MINUTE AS SET FORTH REFTELS B AND C WITH
FOLLOWING CORRECTIONS.

2. TEXT OF AGREED MINUTE IN LAGOS 5007 IS CORRECT EXCEPT
FOR MISSPELLING OF "SIGNED" IN LINE 3, ABSENCE OF
APOSTROPHE IN "NIGERIA'S" IN LINE 8, AND TWO GARBLES:
LINE 9 SHOULD READ "NATIONALIZATION OR OTHER DISPOSITION
OF ANY" AND LINE 13 SHOULD HAVE WORD "FOR"--NOT "OR"--
AFTER "INVESTMENT".

3. TEXT OF INVESTMENT AGREEMENT IN LAGOS 5008 IS CORRECT
EXCEPT THAT THIRD PARA OF ARTICLE 3 SHOULD BE PRECEDED
BY NUMERAL 3, AND FIRST WORD OF LINE 6 IN ARTICLE 4
SHOULD BE "NATIONALS". EMBASSY SHOULD ALSO SUGGE T
CHANGING ARTICLE 6 BY SUBSTITUTING "NIGERIAN ENTERPRISES
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PROMOTION DECREE" FOR "INDIGENISATION DECREE" IN LINES 3

AND 6, TO ACCORD WITH AGREED MINUTE.

4. SIGNATURE BY COMMISSIONER OF INDUSTRIES ACCEPTABLE.
NO EVIDENCE OF HIS AUTHORITY TO SIGN REQUIRED SINCE
APPROVAL OF AGREEMENT WILL BE EVIDENCED BY EXCHANGE OF
DIPLOMATIC NOTES AS PROVIDED IN ARTICLE 9.

5. DIPLOMATIC NOTES CALLED FOR BY ARTICLE 9 MAY BE
EXCHANGED AT TIME AGREEMENT SIGNED IF FMG PREPARED TO DO
SO; OTHERWISE AS SOON AS POSSIBLE THEREAFTER. WE PREFER
THAT NOTES BE IN FIRST PERSON AND SIGNED BY AMBASSADOR
AND FOREIGN MINISTER RESPECTIVELY. US NOTE SHOULD READ:
"EXCELLENCY: I HAVE THE HONOR TO REFER TO THE INVEST-
MENT GUARANTEE AGREEMENT BETWEEN THE UNITED STATES OF
AMERICA AND THE FEDERAL MILITARY GOVERNMENT OF THE
FEDERAL REPUBLIC OF NIGERIA SIGNED AT LAGOS ON (DATE),
1974, AND TO CONFIRM, IN ACCORDANCE WITH ARTICLE 9
THEREOF, THAT IT HAS BEEN APPROVED IN ACCORDANCE WITH
THE CONSTITUTIONAL PROCEDURES OF THE UNITED STATES OF
AMERICA. (PARA) ACCEPT, EXCELLENCY, ETC." FMG NOTE
SHOULD FOLLOW SAME GENERAL FORM. IF FMG REQUESTS THAT
NOTES BE DRAFTED IN THIRD PERSON, EMBASSY MAY REDRAFT
ABOVE ACCORDINGLY. US AND FMG NOTES SHOULD BEAR SAME
DATE AND BE EXCHANGED IN PERSON BY REPRESENTATIVES OF
EMBASSY AND FONMINISTRY SO THAT NO QUESTION CAN ARISE AS
TO ENTRY-INTO-FORCE DATE OF AGREEMENT.

6. THERE SHOULD BE TWO AND ONLY TWO SIGNED ORIGINALS OF
AGREEMENT AND MINUTE, ONE FOR FMG AND ONE FOR USG. EACH
SHOULD BE A RIBBON COPY--NOT A CARBON OR OTHER REPRO-
DUCTION. ANY ADDITIONAL COPIES DESIRED CAN BE REPRODUCED
LATER FROM SIGNED ORIGINALS. ORIGINAL TO BE RETAINED BY
USG SHOULD NAME US FIRST IN TITLE, PREAMBLE, ARTICLE 1,
AND SIGNATURE BLOCK, IN ACCORDANCE WITH PRINCIPLE OF
"ALTERNAT". SEE 11 FAM 732 ON PREPARATION OF TEXTS FOR
SIGNATURE. US SIGNED ORIGINALS SHOULD BE TRANSMITTED
TO DEPARTMENT PROMPTLY AFTER SIGNATURE, PER 11 FAM 725.
ORIGINAL OF FONMIN NOTE ON ENTRY INTO FORCE AND CERTIFIED
COPY EMBASSY NOTE SHOULD BE TRANSMITTED PER 11 FAM 735.

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7. WITH REFERENCE TO PARA 6 REFTEL A, USG REQUIRED BY
LAW TO PUBLISH AGREEMENT AND AGREED MINUTE AND HAS
TREATY OBLIGATION UNDER UN CHARTER TO REGISTER WITH UN.
WE ROUTINELY REGISTER ALL US BILATERALS FOLLOWING PUBLI-
CATION IN TIAS. WE DO NOT WISH EMBASSY TO DISCUSS POINT
WITH FMG OR ASK THEIR PERMISSION, BUT IF QUESTION COMES
UP INFORM FMG WE INTEND TO PUBLISH AND REGISTER AGREE-
MENT AND MINUTE TOGETHER IN ROUTINE MANNER.

8. OPIC APPRECIATES EMBASSY GUIDANCE ON PUBLICITY AND
WILL CABLE TEXT OF PROPOSED PRESS RELEASE FOR EMBASSY
CONCURRENCE. SISCO

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